



# STATE OF NORTH CAROLINA

County

File No.

In The General Court Of Justice

☐ District

☒ Superior Court Division

Name Of Plaintiff

Alex Hammer

Address

PO Box 292

City, State, Zip

China Grove, NC 28023

VERSUS

Name Of Defendant(s)

Hendrick Automotive Group;  
Tonda Wilsman, Regional HR Mgr,  
Hendrick Automotive Group

Mailing address - Plaintiff lives in Mecklenburg County

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Serving by certified mail upon party

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Hendrick Automotive Group  
6000 Monroe Road  
Charlotte, NC 28212

Name And Address Of Defendant 2

Tonda Wilsman, Regional Human Resources Mgr.  
Hendrick Automotive Group  
6000 Monroe Road  
Charlotte, NC 28212



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out!**  
You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales.**  
**¡NO TIRE estos papeles!**

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

NA / Pro se

Date Issued

Signature

Time

☐ AM

☐ PM

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Signature

Time

☐ AM

☐ PM

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

Alex Hammer

Plaintiff,

vs.

Hendrick Automotive Group  
Tonda Wilsman Regional HR Mgr  
Hendrick Automotive Group

Defendant.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

FILE NUMBER: \_\_\_\_\_

JURY REQUESTED ☒

COMPLAINT

I, the Plaintiff(s), complaining of the Defendant(s), say and allege that

1. The Plaintiff is a citizen and resident of Mecklenburg County, North Carolina. - Company/work address
2. The Defendant is a citizen and resident of Mecklenburg County, North Carolina.
3. The Court has jurisdiction over this matter.

4. (State what the defendant has done to cause the damages you are claiming by listing each wrongful act separately)

- by defendant Tonda Wilsman
- A. I was fired for documenting discrimination  
against my short term disability
  - B. Representative of the company GM David Perce  
put together shifting explanations to seek to justify
  - C. process to firing decision, which were  
documented and demonstrated to be false and untrue.

(Please see attached supporting documentation materials)

D. \_\_\_\_\_

WHEREFORE, the Plaintiff demands judgment against the Defendant for:

I am asking the court to award judgment against the defendant(s) in the sum of \$ \_\_\_\_\_.

*Discretion of the Court or Plaintiff or over damages of \$100,000*

I am also asking for reimbursement of my court costs and interest at the legal rate from the date of judgment.

For such other, further, and different relief to which the Plaintiff may be entitled.

This the 20 day of February, 2019.

*Mailing address -  
Plaintiff lives  
in  
Mecklenburg  
County*

Alex Hammer

Plaintiff

Po Box 292

Address

China Grove, NC 28023

City/State/Zip

207-949-7104

Telephone



**From:** Hammer, Alex  
**Sent:** Monday, October 1, 2018 6:34 PM  
**To:** [David.Pierce@hendrickauto.com](mailto:David.Pierce@hendrickauto.com)  
**Subject:** Alex Hammer requested email

You asked me to email you my thoughts at this point and what I believe makes sense about how to move forward:

Personally, I think it by far makes the most sense for me to stay here. During a very very slow period for our dealership, I've sold three vehicles in my first five and a half days of selling, and there are a large number of additional leads in my pipeline already that I believe will sell (and even if I hadn't sold anything, as I am brand new, I have a very strong sales performance background which predicts strong future performance).

In regard to my health, I am disappointed that although I mentioned to you by email at the beginning about my sleep/family issues that you have not explored with HR about the possibility of a leave for me, even though that is what I have wanted. Also, you did essentially force me to come in to work on the one single day when I called out (via your voicemail, before work) because I really really was not feeling well.

Thank you.

Jeff and Kristin below.

-----Original Message-----

From: hscpub <hscpub@aol.com>

To: Tonda. Wilman <Tonda.Wilman@HendrickAuto.com>

Sent: Mon, Oct 8, 2018 3:42 pm

Subject: ~~Re: Tonda~~ and David - Alex Hammer

I appreciate it! One of the managers Jeff, expressed strong discomfort to me re: being forced into the position by David that he was, and another manager, Kristin, came up to me on Saturday and seemed perhaps sorry for her role as well (although she didn't verbalize that, she was just going way out of her way to be extra nice).

I could have easily requested a transfer but I am not a quitter easily at all and I have continued to try to form a good working relationship even with those who may have no interest in me. I say that because perhaps David has changed his mind now that the facts are coming to light (or perhaps not, I don't know), but David told me on several occasions (close in time) he planned to fire me, he has pushed an untruthful narrative, and although I am not a mindreader at all I am worried that he may use your support, even when you have never spoken to me in person or on the phone about this, to make such a firing that he had already made up his mind to do to seem justified. The only reason it appears he has not fired me so far is because I had a lot of documentation (including that he did not take my health issues seriously at all and in fact forced me to come to work on the one single day that I called out) and then because I went to the HR representative in training class the day before returning to the dealership, which may have prevented him from immediately doing what he told me he was going to do.

, Alex

From: Hammer, Alex  
Sent: Saturday, September 08, 2018 3:32 PM  
To: David.Pierce@hendrickauto.com  
Subject: David - Alex Hammer

I am very much enjoying being here and appreciate the opportunity.

My personal goal is to reach 25 vehicle sales per month within 1-2 months of starting to sell.

I am writing you now because I have an issue that I wanted to bring to your attention. I do not know if you are busy today so I did not approach you in person but I am here today if you wish to talk or at any time (after today I will be off tomorrow and Tuesday as per the schedule for Team C).

I have a very stable life but I have a very unusual amount of high personal stress at this time which is effecting my sleep.  
I still feel ok and I didn't want to ask for time off because I just started, but I wanted to bring it to your attention.

I appreciate it a lot.

Thank you.

Near very beginning of hire,  
I kept David (GM)  
Updated as problem worsened.

In addition, I recognize that you may have certain ideas to improve your performance. Therefore, I encourage you to provide your Personal Improvement Plan Input and Suggestions:

(Attach additional sheets if needed.)

## 6. Outcomes and Consequences:

A. Positive: Alex will remain employed with Hendrick Chrysler Dodge Jeep Ram Fiat of Concord by following all company policies and procedures.

B. Negative: Any further actions will result in Disciplinary actions up to and including termination of employment.

## 7. Employee Comments and/or Rebuttal:

(Attach additional sheets if needed.)

## 8. Employee Acknowledgment: Acknowledgements of action taken.

I understand that the Company is an "at-will" employer, meaning that my employment has no specified term and that the employment relationship may be terminated any time at the will of either party on notice to the other.

Alex Han  
Employee Signature

10/6/18  
Date

[Signature]  
Supervisor's Signature

10/6/18  
Date

Witness: (if employee refuses to sign)

Name

Date

Time in conference

Distribution of copies: ☐ Employer ☐ Supervisor ☐ Department Head ☐ Human Resources

Most of this has already been addressed in writing  
and is a narrative which does not meet the facts.

I have explained the entire truth of the matter

Most of this and now I have made a mistake,

not major, I admit it and seek to

learn from it. David has approved?

My medical leave for sleep related disorders.



# EMPLOYEE COUNSELING REPORT

CONFIDENTIAL

Employee Name: Alex Hammer	Department: Sales
Date Presented: 10-3-18	Supervisor: Greg Maynor/David Pierce

1. **Counseling Level:** This report documents the disciplinary action taken.

☐ Verbal Correction

☐ Written Warning

☐ Investigatory Leave

☒ Final Written Warning

With suspension ~~X~~ w/ out suspension

2. **Subject:** Check applicable classification.

☐ Policy/Procedure Violation

☐ Absenteeism and Tardiness

☒ Performance Transgression

☐ Behavior/Conduct Infraction

3. **Prior Notifications:** List prior disciplinary action within the last 12 months (unless directly related to current transgression).  
*Alex has been talked to several times about the way he is handling customers. He was counseled on 9-25-18 for the way he handled a customer.*

## 4. Incident Description and Supporting Details:

On Saturday September 29<sup>th</sup> Alex came to the Sales Manager and stated he had a customer there to look at a truck and that he was not interested in doing anything right then. He ask if someone could get the customer name and phone number so he could handle later. Michael Maman went to speak with the customer who stated he did not feel comfortable working with Alex and would like to have another salesperson. Another salesperson assisted the customer and completed the car deal. On Monday October 1<sup>st</sup> Alex was delivering a car to customer Erika Hodan when he was overheard telling the customer that the car was equipped with Adaptive Cruise Control (ACC). The car the customer was purchasing was not equipped with ACC nor could it be equipped with ACC. Alex also could not pair the customer's phone to the car and had to get another salesperson to take over and complete the pairing for the customer. One of the F&I managers pulled Alex aside and told him he needed to correct what he was telling the customer about the ACC on the vehicle. When Alex was questioned about this customer he became very loud in the showroom so he was ask to step into the General Manager's office to discuss the matter.

## 5. Performance Improvement Plan:

A. **Measurable/Tangible Improvement Goals:** Alex will make sure he is handling all customer with proper customer service, taking care of the customer's needs and only providing them with correct information.

B. **Training or Special Direction to Be Provided:** Alex has been fully trained, if he feels he needs further training he needs to let his managers know so they can provide the training needed.

C. **Interim Performance Evaluation Necessary?** ☐ Yes ☒ No

D. **Our Employee Assistance Program:** (EAP) Provider, Corporate Health International, can be confidentially reached to assist you at (800) 633-3353. This is strictly voluntary. The EAP provides professional assessment, referral and/or short-term counseling services to employees with personal concerns, including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress or other personal issues that may affect job performance. A booklet regarding the EAP's services is available from Human Resources.

**From:** Hammer, Alex  
**Sent:** Wednesday, September 26, 2018 11:04 AM  
**To:** 'kristen.lentz@hendrickauto.com' <kristen.lentz@hendrickauto.com>  
**Cc:** Pierce, David <Samuel.Pierce@HendrickAuto.com>  
**Subject:** Kristen - Alex

Hi Kristen. I am off today. I know that you are probably always pretty busy, but are you willing to sit down with Scott and I together to sort out what happened with that customer?

Scott stealing the customer right from my desk when I was making a copy of the customer's driver's license etc. is one of the most unprofessional actions I have witnessed in my career, and probably created confusion with the customer about which sales agent to work with (I gave you a few details later on when you spoke to me, such as Scott handing my take control of the deal, etc.). I honestly didn't know how to deal with the situation so I didn't say anything to you about it at the time (I only did ask Scott very politely to please not give his business card to my customer, especially right in front of me). Honestly, until Scott gave the customer his business card I thought, though unusual, that Scott was probably just trying to be helpful (even if it wasn't, so I didn't say anything).

When I was shadowing with Greg I also witnessed Scott give his business card to one of Greg's customer's that Greg was working on with the time (Scott spoke briefly to Greg about it).

Also, Trevor was given at least half of my first sale and possibly all of it (a few screens differ so I am not sure which) even though I did the sale and not Trevor and my name was listed on the board (Francina (sp?) assisted with the sale and Trevor did assist with paperwork).

Thank you Kristen for helping to sort this out successfully.



CONFIDENTIAL

# EMPLOYEE COUNSELING REPORT

Employee Name: Alex Hammer	Department: Sales
Date Presented: 09-25-2018	Supervisor: Kristin Lents

**1. Counseling Level:** This report documents the disciplinary action taken.

☒ Verbal Correction

☐ Investigatory Leave

☐ Written Warning

☐ Final Written Warning

☐ With suspension

**2. Subject:** Check applicable classification.

☐ Policy/Procedure Violation

☐ Absenteeism and Tardiness

☐ Performance Transgression

☐ Behavior/Conduct Infraction

**1. Counseling**  
Describe conduct, or policy/rule violated which led to disciplinary action:

**3. Prior Notifications:** List prior disciplinary action within the last 12 months (unless directly related to current transgression).

Level of Discipline	Date	Subject
Verbal		
Written		
Final Written		

**4. Incident Description and Supporting Details:** Include the following information: Time, Place, Date of Occurrence, and Persons Present as well as Organizational Impact.

Customer stated they were not comfortable working with Alex and decided to leave while Alex was pulling up a vehicle to show them. Another sales person noticed they were leaving without being spoken to by a sales manager and caught the customer in their vehicle as departing. Sales manager then went out to the vehicle to speak to customer to try and save the deal. Customer still departed

**5. Performance Improvement Plan:**

**A. Measurable/Tangible Improvement Goals:** Establish expectations for improvement.

We understand that not every customer will click with every sales person. However, making sure we are being as accommodating and welcoming as we can be with each and every customer every time.

**B. Training or Special Direction to Be Provided:**



C. Interim Performance Evaluation Necessary? ☐ Yes ☐ No

D. Our Employee Assistance Program: (EAP) Provider, Corporate Health International, can be confidentially reached to assist you at (800) 633-3353. This is strictly voluntary. A booklet regarding the EAP's services is available from Human Resources.

E. In addition, I recognize that you may have certain ideas to improve your performance. Therefore, I encourage you to provide your own Personal Improvement Plan Input and Suggestions:

(Attach additional sheets if needed.)

### 6. Outcomes and Consequences:

A. Positive: Describe outcome for improvement.

Being accommodating with each and every customer, welcoming them into the store.

B. Negative: Describe specific consequences for failure to improve.

Continued customer issues will result in reassignment of duties or termination.

C. Scheduled Review Date: ☐ N/A

about the details related to this

7. Employee Comments and/or Rebuttal: Employee's remarks, if desired. This section is to be completed by employee.

Being accommodated Kristin and David? Confusion with the customer was caused by co-worker stealing the customer's light from my desk.

(Attach additional sheets if needed.)

Kristin is very very good but ended in this

### 8. Employee Acknowledgment: Acknowledgements of action taken.

I understand that the Company is an "at-will" employer, meaning that my employment has no specified term and that the employment relationship may be terminated any time at the will of either party on notice to the other.

Employee Signature

Date

Supervisor's Signature

Date

Witness: (if employee refuses to sign)

Name

Date

Time in conference

Distribution of copies: Employer Supervisor Department Head Human Resources



Tue, Oct 30, 2018 11:45 am

**hscpub** hscpub@aol.comHide

To **Tonda.Wilsman** Tonda.Wilsman@HendrickAuto.com

You NEVER indicated that you wanted me to return to work after you had already sent me home from work when I did return - I expressed an interest in writing in returning to work many times (and the last thing you said to me in our meeting when I did return to work is that sometimes it is not the best fit for an employee...

This situation never needed to occur in the first place because I was doing a good job but David told me several times he was going to fire me when I politely told him that he essentially forced me to come in on the one day I had called in when I wasn't feeling well.

Mon, Oct 29, 2018 6:09 pm

**hscpub** hscpub@aol.comHide

To **Tonda.Wilsman** Tonda.Wilsman@HendrickAuto.com

PS I had already returned to the dealership following our meeting and was at the dealership, but then you sent me home.

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Alex Hammer**  
**PO Box 292**  
**China Grove, NC 28023**

From: **Charlotte District Office**  
**129 W. Trade Street**  
**Suite 400**  
**Charlotte, NC 28202**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.	EEOC Representative	Telephone No.
<b>430-2019-00461</b>	<b>Marie Barnes,</b> <b>Investigator Support Asst</b>	<b>(704) 954-6474</b>

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**Thomas M. Colclough,**  
**Acting Director**

**FEB -7 2019**

(Date Mailed)

Enclosures(s)

cc: **Jenny Mann, Regional HR Manager**  
**HENDRICK AUTOMOTIVE GROUP**  
**6000 Monroe Road, Ste 100**  
**Charlotte, NC 28212**



**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (~~3 years~~ for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- *not* 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***